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Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, NY 10036

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OFFICE OF PETITIONS

In re Application of :
Randy Prager, et. al. :
Application No. 09/892,385 : **ON PETITION**
Filed: June 26, 2001 :
Attorney Docket No. 1584/65397 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, to revive the above-identified application.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,020 extension of time submitted with the petition on December 20, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to Technology Center Art Unit 2167, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy